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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ANYWHERE COMMERCE, INC. and)
BBPOS LIMITED,)
Plaintiffs,)
v.) CIVIL ACTION NO.:
INGENICO INC., INGENICO CORP.) 1:19-cv-11457-IT
and INGENICO GROUPS, SA,)
Defendants.)

)

The VIDEO DEPOSITION of MICHAEL KRON, taken in the
above-entitled cause, before Susan Steudel, official
reporter, on the 30th day of November, 2021

<p>1 have the deposition, but that's the extent of it. Other 2 than letting them know that I have a deposition coming up, 3 that's it.</p> <p>4 Q. Thank you. What about Ben Lo?</p> <p>5 A. I did not speak to him at all about my deposition 6 or his deposition. I haven't spoken to him in over a 7 month or two. I have not had any communication with him. 8 Feels like at least a month. At least a month.</p> <p>9 Q. You anticipated my next question. Do you 10 remember when the last time was that you did speak with 11 Mr. Lo?</p> <p>12 A. You know maybe -- it feels like 60 days ago.</p> <p>13 Q. Is that typical, that you would only speak with 14 Mr. Lo every few months?</p> <p>15 A. It depends. He's gotten busier and busier. So 16 he's grown his business, so yeah he's -- you know, with 17 COVID and whatever else he's busy with. There's a lot of 18 interaction between my team members and his team members 19 and truly the only time I need to speak to him is if 20 there's some -- something to be discussed that can't be 21 dealt with at the team level.</p> <p>22 Q. What is the current relationship between 23 AnywhereCommerce and BBPOS?</p> <p>24 A. We are a distributor for them.</p> <p>25 I would like to make a clarification, if I may.</p>	<p>1 Q. Certainly.</p> <p>2 A. In 2006, we incorporated a company 4361423 Canada 3 Inc. This company filed for patents, and it had a trade 4 name of AnywhereCommerce.</p> <p>5 In 2010, we incorporated a new company called 6 AnywhereCommerce, Inc. So at that point 4361423 no longer 7 acted as an operating company named AnywhereCommerce and 8 the new AnywhereCommerce company continued to act as 9 AnywhereCommerce. So there are two entities that have the 10 right to work under the name AnywhereCommerce, but only 11 one is working under that name presently.</p> <p>12 So when you ask me about AnywhereCommerce I know 13 that this was an AnywhereCommerce, Inc. claim on our side. 14 So I just want to clarify that I'm always responding to 15 AnywhereCommerce, Inc. which was incorporated in 2010 and 16 the other company is a separate ...</p> <p>17 So unrelated to this case.</p> <p>18 Q. It is unrelated to this case?</p> <p>19 A. Well, unrelated in terms of claims. We didn't -- 20 it's not the claimant. So it could be related to 21 questions, but ... questions.</p> <p>22 Q. Is that company, the one that had been doing 23 business from -- let me make sure I understand your 24 testimony. You're saying that there was another company?</p> <p>25 A. Yeah.</p>
<p>1 Q. That was doing business as AnywhereCommerce from 2 2016 to 2010?</p> <p>3 A. Well, in 2006 it started as a company called 4 HomeATM. It was doing business with the name HomeATM and 5 at one point HomeATM became AnywhereCommerce. In other 6 words, it just changed. The model changed.</p> <p>7 Q. So when we talk about HomeATM, that was a 8 different corporate entity than the current 9 AnywhereCommerce, Inc.?</p> <p>10 A. Correct.</p> <p>11 Q. And HomeATM was founded in 2006?</p> <p>12 A. Correct.</p> <p>13 Q. And it was doing business under the trade names 14 HomeATM and then later AnywhereCommerce?</p> <p>15 A. Correct.</p> <p>16 Q. And it continued to do that until 2010 when you 17 incorporated a new entity called AnywhereCommerce, Inc.?</p> <p>18 A. Yes.</p> <p>19 Q. At that point did the original entity that had 20 done business under the AnywhereCommerce trade name cease 21 to do business?</p> <p>22 A. No.</p> <p>23 Q. Did it cease being an operating company?</p> <p>24 A. No.</p> <p>25 Q. What does it -- what business does it do?</p>	<p>1 A. It has a -- it has patents. It has a patent 2 license. So it is a patent. It is a patent basically 3 licensing business.</p> <p>4 Q. So that is the company that holds the patents 5 that AnywhereCommerce has title to; is that fair?</p> <p>6 A. Yes.</p> <p>7 Q. So when there's references to AnywhereCommerce's 8 IP or its patent portfolio, those are the patents that are 9 held by this company with the numerical name --</p> <p>10 A. Yes.</p> <p>11 Q. -- that had previously done business as HomeATM 12 and AnywhereCommerce?</p> <p>13 A. Correct.</p> <p>14 Q. Does AnywhereCommerce Inc. hold any of the 15 patents itself?</p> <p>16 A. No.</p> <p>17 Q. Other than holding the patents and license 18 agreements associated with those patents, since 2010 has 19 that original entity conducted any business?</p> <p>20 A. It has not done any business in terms of selling 21 mobile hardware products or gateway products or services. 22 So, no, none of those businesses. None of those 23 activities that are, you know, currently being done by 24 AnywhereCommerce, Inc. So other than patent licensing, 25 there's no other business. Patent-related business only.</p>

<p>1 A. For most part, yes.</p> <p>2 Q. What types of issues come up that Mr. Poulsen 3 would have to deal with?</p> <p>4 A. You know, integration issues. There's a card 5 reader that is supposed to be connected to either a phone 6 or a tablet or a computer and then it's supposed to be 7 connected to a gateway and then there's a processor, an 8 acquirer, and this flow that has to happen kind of 9 seamlessly. He gets involved in various aspects of that. 10 Sometimes it's the person is about to turn on their 11 computer type thing but there's also some very difficult 12 technical issues.</p> <p>13 Q. You -- I think the last person you mentioned was 14 Mitch Cobrin. What's his role?</p> <p>15 A. He's in sales.</p> <p>16 Q. Does he report to Jeff Park?</p> <p>17 A. He does.</p> <p>18 Q. How long has Mr. Park been with AnywhereCommerce?</p> <p>19 A. Approximately five years. Could be six. Five or 20 six years.</p> <p>21 Q. Mr. Poulsen?</p> <p>22 A. Same thing. Five to six years. They started 23 around the same time. I'd say five to six years.</p> <p>24 Q. And where did Mr. Poulsen come from?</p> <p>25 A. He came out of retirement when he joined us. But</p>	<p>1 he'd been at many companies including Verifone. They knew 2 each other from Verifone. So Jim and Jeff previously 3 worked at Verifone.</p> <p>4 Q. You said you have five employees. Would you be 5 the sixth?</p> <p>6 A. I'm not an employee; I'm a consultant of record. 7 I'm a consultant. In other words, my holding company has 8 a consulting agreement with AnywhereCommerce.</p> <p>9 Q. Are there other people who have consulting 10 agreements with AnywhereCommerce?</p> <p>11 A. Yes.</p> <p>12 Q. Who?</p> <p>13 A. Dan McCann.</p> <p>14 Q. How do you spell that?</p> <p>15 A. M-c-C-a-n-n.</p> <p>16 Q. What type of consultant is he?</p> <p>17 A. He's an acting chief technology officer.</p> <p>18 Q. How long has he been the acting CTO?</p> <p>19 A. Four years.</p> <p>20 Q. Is that a full-time position for him?</p> <p>21 A. No.</p> <p>22 Q. How many hours does he spend?</p> <p>23 A. It's varied. It's been less and less in the last 24 year. So are you asking in the last 12 months how many 25 hours he's spending?</p>
<p>1 Q. Sure.</p> <p>2 A. I would say no more than -- I'd say five to ten 3 hours a week.</p> <p>4 Q. How does that compare to you as a consultant?</p> <p>5 A. I spend 80 percent of my time, possibly 6 80 percent of my time on the AnywhereCommerce business. 7 Between the two companies.</p> <p>8 Q. Between AnywhereCommerce, Inc. and its parent?</p> <p>9 A. Yes.</p> <p>10 Q. What type of work do you do for the parent 11 company?</p> <p>12 A. I make sure that -- I oversee the patents. I 13 work with various professionals that we work with to file 14 continuation patents and keep the patents alive and make 15 sure all the fees are filed and I help with any licenses 16 that we might have an opportunity to execute.</p> <p>17 Q. Were you involved in the inter partes review on 18 some of those patents?</p> <p>19 A. Yes.</p> <p>20 Q. What was your role in that?</p> <p>21 A. I was the business quarterback.</p> <p>22 Q. Other than Mr. McCann and yourself, are there 23 other consultants for AnywhereCommerce, Inc.?</p> <p>24 A. Yes. Mr. McCann has a number of programmers 25 behind him that he uses to get whatever type of job done</p>	<p>1 that's required.</p> <p>2 Q. Do those programmers contract directly with 3 AnywhereCommerce?</p> <p>4 A. No. They contract with him.</p> <p>5 Q. Does he bill their time to you?</p> <p>6 A. Yes.</p> <p>7 Q. Does Mr. McCann work on an hourly basis?</p> <p>8 A. Yes.</p> <p>9 Q. And do you work on an hourly basis as a 10 consultant?</p> <p>11 A. No.</p> <p>12 Q. How do you get paid?</p> <p>13 A. A fixed salary.</p> <p>14 Q. Has that changed over time, your fixed salary?</p> <p>15 A. Yes.</p> <p>16 Q. So you've been CEO now since April of 2017. 17 During that whole time have you been on a salary?</p> <p>18 A. Consulting fees, like I mentioned. Consulting 19 fees. Not salary.</p> <p>20 Q. But a fixed annual fee?</p> <p>21 A. A fixed annual fee that changed once or twice. 22 Not dramatically, but I've gotten a raise.</p> <p>23 Q. What about prior to your service as CEO? When 24 you were CFO were you an employee?</p> <p>25 A. No.</p>